

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7797

BILL NUMBER: SB 509

NOTE PREPARED: Mar 1, 2005

BILL AMENDED: Feb 28, 2005

SUBJECT: Right to Cure for Deceptive Acts.

FIRST AUTHOR: Sen. Clark

FIRST SPONSOR: Rep. Koch

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) The bill defines an offer to cure a deceptive act as a cure that: (1) is reasonably calculated to remedy the consumer's loss; and (2) includes an additional amount of the greater of 10% of the value of the cure or \$500. It provides that: (1) the court may award additional damages for a willful deceptive act; (2) an offer to cure is only admissible as evidence in a proceeding to show that a party is not entitled to attorney's fees; and (3) a respondent may not be held liable for attorney's fees and court costs unless the actual damages awarded exceed the value of the offer to cure. The bill also specifies that the real estate exclusion for uncured deceptive acts under this section includes a claim involving a construction defect that is brought against a construction professional.

Effective Date: July 1, 2005.

Explanation of State Expenditures:

Explanation of State Revenues: This bill allows the court to increase the amount of damages in an action involving a person relying upon an uncured or incurable deceptive act. It also provides a definition for "offer to cure". Any increase in court fee revenue to the state General Fund will ultimately depend upon the number of civil actions which results from this legislation, but will likely be small.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* Any increase in court fee revenue will ultimately depend upon the amount of civil action which results from this legislation, but will likely be small.

State Agencies Affected:

Local Agencies Affected: Trial courts, city and town courts.

Information Sources:

Fiscal Analyst: Adam Brown, 317-232-9854.